

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
BATESVILLE DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

AUG 29 2017

JAMES W. McCORMACK, CLERK

By: [Signature] DEPT. CLERK

PLAINTIFF

BAD BOY, INC.

v.

NO. CV- 1:17cv90-BSM

**INTIMIDATOR, INC. AND
RF PRODUCTS, INC.**

DEFENDANTS

COMPLAINT

This case assigned to District Judge [Signature]
and to Magistrate Judge [Signature]

Comes now the Plaintiff, Bad Boy, Inc., by and through its undersigned attorneys, and for its complaint against the Defendants, Intimidator, Inc. ("Intimidator") and RF Products, Inc. ("RF Products"), alleges and states the following:

1. Plaintiff is a corporation organized and existing under the laws of the State of Arkansas, with its principal place of business located in Batesville, Arkansas. Plaintiff engages in the manufacture and sale of residential and commercial grade zero turn mowers under the trademark BAD BOY. Plaintiff does substantial business in the State of Arkansas, including the Eastern District of Arkansas, Batesville Division.

2. Defendant Intimidator is a corporation organized and existing under the laws of the State of Arkansas, with its principal place of business located in Batesville, Arkansas. Intimidator manufactures residential and commercial grade zero turn mowers under the trademark SPARTAN. Intimidator does substantial business in the State of Arkansas, including the Eastern District of Arkansas, Batesville Division.

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District of Arkansas, Batesville Division.

4. Intimidator and RF Products (collectively “Defendants”) have common ownership, specifically Robert Foster.

5. Defendants have made and/or sold SPARTAN mowers, including the infringing mowers that are the subject of this lawsuit, in the State of Arkansas, including the Eastern District of Arkansas, Batesville Division.

6. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1338. More specifically, the Court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a) because the claims in this case arise under the Patent Act, 35 U.S.C. § 271, *et seq.*

7. This Court has personal jurisdiction over Defendants and venue is proper in the Eastern District of Arkansas, Batesville Division, pursuant to 28 U.S.C. §1391(b) and (c) and 28 U.S.C. §1400 in that Defendants reside in the Eastern District of Arkansas, Batesville Division, regularly transact business in the Eastern District of Arkansas, Batesville Division, and have committed the acts complained of herein within the Eastern District of Arkansas, Batesville Division, and elsewhere, which acts have caused injury to Plaintiff both within the Eastern District of Arkansas, Batesville Division, and elsewhere.

8. Plaintiff has manufactured and sold residential and commercial grade zero turn mowers for many years.

10. On August 15, 2017, after a full and fair examination, the United States Patent and Trademark office duly and legally issued US Patent No. 9,730,386, entitled “Suspension System for Lawnmowers” (“’386 Patent”). A true and correct copy of the ‘386 Patent is attached hereto and incorporated herein as Exhibit “A”. By means of an assignment recorded at the United States Patent and Trademark Office on January 6, 2017, the Inventors, Charles Bradley Covington and Warren Long, assigned all rights, title, and interest in the patent application granted as the ‘386 Patent to Plaintiff. A true and correct copy of the assignment is attached hereto and incorporated herein as Exhibit “B”. The ‘386 Patent was issued to the Plaintiff as the assignee.

11. Since its issuance, Plaintiff’s ‘386 Patent has been in full force and effect. Plaintiff owns all right, title and interest in the ‘386 Patent, including the right to sue for past, present and future infringements.

12. Defendants are making, using, selling, and/or offering for sale mowers that infringe on one or more claims of the ‘386 Patent. The infringing mowers are marketed by Defendants under the name “SPARTAN SRT” and possibly other names as well.

13. Defendants have sold their infringing mowers to retail stores within the State of Arkansas and advertise their infringing mowers via internet websites including one they maintain (i.e. www.spartanmowers.com) that is accessible from the Eastern District of Arkansas, Batesville Division. Upon information and belief, Defendants also own and operate interactive websites, including www.spartanmowers.com, that market the infringing mowers. Furthermore, Defendants’ infringing mowers may be obtained by consumers at retail establishments within the Eastern District

15. Defendants continue to willfully infringe on Plaintiff's '386 Patent.

16. Defendants will continue to infringe on Plaintiff's '386 Patent unless enjoined and restrained by the Court. As a direct and proximate result of Defendants' patent infringement, Plaintiff has suffered and will continue to suffer irreparable harm. In addition, Plaintiff has been, and will continue to be, harmed and injured in its business and property and has sustained, and will continue to sustain, damages to its business, property and profits.

COUNT 1 (PATENT INFRINGEMENT)

17. Plaintiff restates and incorporates the allegations contained in paragraphs 1-16 herein.

18. The above-referenced patent, United States Patent Number 9,730,386 (the '386 Patent), is valid, was duly and legally issued by the United States Patent and Trademark Office, and is owned exclusively by Plaintiff.

19. Defendants are making, using, selling, and/or offering for sale mowers, which infringe on one or more claims of United States Patent Number 9,730,386 in contravention of 35 U.S.C §271.

20. Defendants' activities with respect to Plaintiff's patent have been without the express or implied license of Plaintiff.

21. Defendants have directly infringed, both literally and/or under the doctrine of equivalents, the '386 Patent, and continues to directly infringe the '386 Patent.

22. Defendants' infringement of the '386 Patent is willful.

23. Defendants' infringing actions have caused, and will continue to cause if not

upon the '386 Patent.

25. Plaintiff has been, and will continue to be, harmed and injured in its business and property and has sustained, and will continue to sustain, damages to its business, property and profits, for which it is entitled to judgment.

26. Defendants' past and continuing infringement of the '386 Patent has been deliberate and willful.

27. Defendants' conduct warrants an award of treble damages pursuant to 35 U.S.C. §284.

28. Defendants' conduct warrants a finding of an exceptional case and an award of attorneys' fees to Plaintiff pursuant to 35 U.S.C. §285.

29. Plaintiff is entitled to actual and enhanced damages for Defendants' willful infringement acts as determined at the trial of this matter, and to reasonable attorney's fees, costs and interest.

WHEREFORE, the Plaintiff, Bad Boy, Inc., prays that it be granted judgment against the Defendants, Intimidator, Inc. and RF Products, Inc., jointly and severally, and that it be awarded the following relief:

A. A judgment that Plaintiff's '386 Patent is valid and enforceable and that Defendants have willfully infringed and actively induced others to infringe the '386 Patent.

B. A permanent injunction prohibiting Defendants from infringing upon the above referenced patent, as provided in 35 U.S.C. §283.

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